



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2004

Ms. Ashley D. Fourt
Assistant District Attorney
Tarrant County
Justice Center
401 W. Belknap
Fort Worth, Texas 76196-0201

OR2004-6754

Dear Ms. Fourt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 205890.

The Tarrant County Sheriff's Department (the "sheriff") received a request for eight categories of information "for each individual found in the booking records of the Tarrant County Sheriff's Office" in electronic format.¹ You claim that the requested information is not subject to disclosure under the Public Information Act (the "Act"). We have considered this claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that person may submit comments stating why information should or should not be released).

You inform us that the requested information is "contained only in the county's criminal database." In connection with a previous ruling to the Tarrant County District Attorney's Office (the "district attorney's office"), this office was informed of two court orders and an agreement that apply to the electronic information requested in this instance. *See* Open Records Letter No. 2000-4694 (2000). In 1995, the presiding district court judges in Tarrant County entered an order which states that court records kept by or for the judiciary on the county's database of criminal records, including records kept or maintained by the sheriff and

¹We note that this ruling addresses only the public availability of the requested information in an electronic format, and does not consider the public availability of any paper records.

district attorney's office, are records of the judiciary to which the Act does not apply. *Order Approving Dial-In Access to Court Records* (Tarrant County, Tex. Sept. 6, 1995). This order further provides for limited computer dial-in access to these records. *Id.* Pursuant to this order, the Tarrant County district clerk, county clerk, district attorney's office, and sheriff entered into an agreement to provide dial-in access for the public to the county criminal database. *Agreement to Provide Dial-In Access to Court Records* (Tarrant County, Tex. Feb. 8, 1996). In 2000, several of the presiding district court judges entered a second court order which prohibits access to the county criminal database in any manner inconsistent with the dial-in access outlined in the first court order. *Order Directing the County Administrator, the County's Information Technologies Department and the Tarrant County District Clerk From Providing Access to Judicial Records in Any Manner Not Consistent with the Order Approving Dial-In Access to Court Records* (Tarrant County, Tex. Oct. 3, 2000). We understand that the court orders and agreement remain in place and encompass the eight categories of electronic information at issue here. *See generally Order and Opinion Denying Request Under Open Records Act*, 1997 WL 583726 (Tex. Aug. 21, 1997) (only judges and courts have the power to control access to records of the judiciary). As the requested information is information collected, assembled, or maintained *by or for the judiciary*, the public availability of the information is not governed by the Act and is instead governed by "rules adopted by the Supreme Court of Texas or by other applicable law and rules" pertaining to information "collected, assembled, or maintained by or for the judiciary." *See* Gov't Code § 552.0035(a).

You ask this office to issue a previous determination regarding "the availability of computerized records from the Sheriff's Department . . . for future requests for information from the county's criminal database." Because we find that the requested information is not subject to the Act, a previous determination is not appropriate in this case. *See* Gov't Code § 552.301(a) (a previous determination is a determination that one of the Act's exceptions to disclosure applies to the information at issue). Accordingly, this letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Marc A. Barenblat
Assistant Attorney General
Open Records Division

MAB/jh

Ref: ID# 205890

c: Mr. Mike Coffey
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